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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,841

04/15/2004

Ellis H. Leibman

S693-J

6857

28040

7590

07/30/2007

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EXAMINER

BATTULA, PRADEEP CHOUDARY

ART UNIT

PAPER NUMBER

3722

MAIL DATE

DELIVERY MODE

07/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/824,841

**Applicant(s)**

LEIBMAN, ELLIS H.

**Examiner**

Pradeep C. Battula

**Art Unit**

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED OFFICE ACTION

**This office action is in reply to the response filed on January 4, 2007**

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han (6,663,310) in view of Miyamoto (U.S. 3,612,709).

Han discloses in Fig. 10, 21 and Attachment II, a system of binder spines comprising: a first, second, and third binder spine; wherein each binder spine comprises a back panel (23) being generally rectangular, having a width and a length and bounded by generally opposed lateral edges (A1 and A2); a first edge (A1) being joined through a living hinge to a first panel (P1) mounting edge of a first side panel, and a second of the longitudinal edges being joined through a second living hinge to a second panel mounting edge of a second panel (P2); the binder spine being foldable along the living hinges between an open flat configuration and closed figuration; a plurality of post members [3 members] (36, in Fig. 21) located on the first side panel (P1) and a plurality socket members located on the second side panel (P2); wherein the socket and post members include cylindrical mating walls to retainingly interengage one another in the closed configuration to hold the binder spine in the snap-fit closed configuration; and wherein the distance between the socket member being substantially the same in each

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of the first, second and third binder spines; wherein each of the binder spines includes at least three socket and post members.

However Han does not disclose: wherein each of the binder spines have various dimensional configurations from the others and the mating walls being generally straight-sided cylinders throughout their lengths.

With to the mating walls being generally straight sided, Miyamoto discloses a binder having posts 5 and sockets 4 (Column 2, Lines 13 – 17; Figure 1, Items 4, 5) which are both cylindrical and therefore having mating walls that are generally cylindrical (Figure 4). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the binder mating portion shapes of Miyamoto in order to create a binder wherein the mating portions of a simple geometry and composition while having proper toughness and elasticity (Column 1, Lines 19 – 31).

In regards to Claims 6 and 7, Han discloses in Fig. 1, 56 and Attachment I, a binder spine comprising: a back panel (10) being generally rectangular, having a width and a length and bounded by generally opposed lateral edges (10a and 10b); a first edge (10a) being joined through a living hinge (15) to a first panel (20a) mounting edge of a first side panel (20), and a second edge (10b) of the longitudinal edges being joined through a second living hinge (14) to a second side panel mounting edge (22a; it is a dimensional object and has a side) of a second panel (22); the binder spine being foldable along the living hinges between an open flat configuration and closed figuration; at least one post member (31, in Fig. 1) located on the first side panel (20)

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and one socket member (32) located on the second side panel (22); wherein the socket and post members include cylindrical mating walls (see Fig. 21) to retainingly interengage one another in the closed configuration to hold the binder spine in the snap-fit closed configuration; and wherein the distance between the socket member being substantially the same in each of the first, second and third binder spines; wherein each of the binder spines includes at least three socket and post members (see Fig. 1).

However Han does not disclose: wherein each of the binder spines have various dimensional configurations from the others and the mating walls being generally straight-sided cylinders throughout their lengths.

In regards to the mating walls being generally straight sided, Miyamoto discloses a binder having posts 5 and sockets 4 (Column 2, Lines 13 – 17; Figure 1, Items 4, 5) which are both cylindrical and therefore having mating walls that are generally cylindrical (Figure 4). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the binder mating portion shapes of Miyamoto in order to create a binder wherein the mating portions of a simple geometry and composition while having proper toughness and elasticity (Column 1, Lines 19 – 31).

In regards to **Claims 1-5, 8 and 9**, it would have been obvious to one having skill in the art to construct the individual binder spines in any desirable size or dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been to construct the binder spines

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with any desirable dimension, since applicant has not disclosed the criticality of having a particular size, and invention would function equally as well if constructed in any desirable size.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1- 9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-

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272-2142. The examiner can normally be reached on Monday - Thursday 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB  
Patent Examiner  
July 20, 200795

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER